

REMARKS

Claims 43-77 were presented for examination and were pending in this application. In a Final Official Action dated May 4, 2004, claims 43-77 were rejected. In this present amendment, Applicants cancelled claims 59-72 and have amended independent claims 43 and 51. Applicants thank Examiner for examination of the claims pending in this application and addresses Examiner's comments below.

Claims 43-77 were rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff in view of Deaton. This rejection is traversed as applied to pending claims 43-58 and 73-77 because the references, alone or in combination, do not disclose or suggest all of the claimed elements.

Claims 43-58 and 73-77 recite "the value of the non-price attribute of the item increases as more buyers make offers in the on-line group-buying sale," and while "the price of the item does not change in response to an increase in the quantity of buyer offers". Associating an increase in value of a non-price attribute of an item, with an increase in the number of buyer offers, without changing the price of the item, as claimed, is beneficially suited for certain products and services such as certificates of deposit or club memberships. The attractiveness of a sale involving such goods can be reflected through a higher value, e.g. a higher interest rate in the case of a certificate of deposit or more membership benefits in the case of the club membership, instead of through a lower price. This further enhances the efficiency and attractiveness of the group-buying sale, since additional buyers are able to make the item become more attractive. This is true for example, by increasing non-price attributes that have intangible or non-monetary value to buyers.

The Examiner agrees that Pallakoff does not disclose the claimed element. (Office Action, p.4) Nor does Deaton suggest or disclose the claimed features. Applicants have reviewed Deaton in its entirety, including those portions cited by Examiner, and find no mention or hint of the above limitations. At best, Deaton discloses a variety of different discounts and discount coupons that may be provided to a customer depending on the volume of the customer's purchasing or other factors. (See, e.g. Abstract) Assuming the coupons are for the item being purchased, they change the *price* attribute of the item being changed. That is not the claimed invention. Deaton's disclosure that the price of an item, for instance a can of spaghetti sauce, decreases from \$2.95 to \$2.00 with the use of a coupon teaches away from the claim limitations that "the non-price attribute of the item increases" and the "price of the item does not change in response to an increase in the quantity of buyer offers". Further, "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." MPEP 2143.01. Because Deaton's principle of operation--providing coupons to lower the price of an item--would have to be fundamentally altered to provide the claimed features, it is impermissible for it to be modified in this way to be combined with Pallakoff to achieve the claimed invention.

For at least the reasons discussed above, Applicants respectfully submit that the pending claims, as presented herein, are patentably distinguishable over the cited references. Therefore, Applicants request reconsideration of the basis for the rejections to these claims and request their allowance.

In addition, Applicants respectfully invite Examiner to contact Applicants' representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

Respectfully Submitted,  
Tom Van Horn *et al.*

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